

## Conway, Bette

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**From:** Fulton, Jennifer  
**Sent:** Friday, March 04, 2022 2:20 PM  
**To:** Jeff Parsons  
**Cc:** Marvin.R.Journell@wv.gov; Conway, Bette; Crane, Rebecca; Martinsen, Jessica; R3 NPDES Mining Submittals  
**Subject:** WV1019121 Keystone West Virginia LLC - Rush Creek Surface Mine

Hello Jeff,

Pursuant to Section 402 of the Clean Water Act, 40 C.F.R. § 123.44, and the Memorandum of Agreement Regarding the Administration and Enforcement of the National Pollutant Discharge Elimination System (NPDES) in West Virginia (1982) (MOA), the U.S. Environmental Protection Agency (EPA) Region III received the draft permit modification for:

Keystone West Virginia LLC – Rush Creek Surface MPM13  
NPDES Number: Permit WV1019121 Major Modification #13  
EPA Received: February 4, 2022  
30-day response due date: March 6, 2022

According to the information provided in the permit rationale, Keystone West Virginia LLC submitted this modification, adding acreage/outfalls through incorporation of 2 expired permits, ...”to expedite NPDES coverage on existing outlets on expired permits WV1021877 and WV1021745. The associated revoked Article 3 permits (S300404 and S300905) are under reinstatement, and upon approval of such reinstatement, the new company (Keystone WV LLC) will accept this NPDES permit for ongoing water quality monitoring and reporting.” The rationale also states that ...”No changes are being made to drainage areas, limits for parameters of concern, or monitoring requirements. All remain in place as permitted in the original permits and will be applied to WV1019121.” The rationale also mentions that outfall IDs will have to change after the merge to avoid duplication of outfall numbers, etc.

In this draft modification, selenium monitoring is assigned to all receiving stream monitoring locations (including the BAS stations) but not all of the outfalls; since this modification was to incorporate two other expired permits and indicates that no changes are proposed to effluent limitations, it is unclear why some outfalls have no selenium monitoring requirements (005 through 013, 015, 017 through 020, 023 through 026), whereas some have selenium monitoring requirements assigned (022, 028 to 034, 036 to 062), and others have selenium water quality based effluent limits (valley fill outfalls 035, 004, 002, 001, and outfalls 027, 021 and 014). EPA recommends that the permit documents include an explanation on why and how selenium monitoring and limits were assigned to the different outfalls.

EPA recommends that in the next NPDES permitting action that the selenium monitoring data be used to conduct a reasonable potential analysis for all outfalls to determine whether monitoring and/or water quality based effluent limitations for selenium should be applied to the outfall(s). This analysis should include an evaluation/discussion of 303(d) listing or TMDL impairments noted in the receiving stream reaches for selenium. We note that this permit includes a discussion of all the TMDL impairments for the receiving streams, however, it is not clear as to why some outfalls have no selenium monitoring requirements.

If there are any questions about these comments, please contact Bette Conway on my staff via telephone at 215-814-5744 or via email at [conway.bette@epa.gov](mailto:conway.bette@epa.gov).

Thank you,  
Jen Fulton



**Jennifer Fulton**

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